



January 25, 2008

SENATE BILL No. 81

DIGEST OF SB 81 (Updated January 23, 2008 4:57 pm - DI 106)

Citations Affected: IC 9-13; IC 9-17; IC 9-18; IC 9-29; IC 9-31.

Synopsis: Transfer on death conveyances. Authorizes an owner of a vehicle or a watercraft to transfer ownership of the vehicle or watercraft upon the death of the owner by designating a transfer on death beneficiary on the certificate of title for the vehicle or watercraft. Allows 60 days rather than 31 days for an individual acquiring a motor vehicle or a watercraft as a transfer on death beneficiary to fulfill certain duties. Prohibits political subdivisions or local law enforcement agencies of political subdivisions from imposing or collecting an accident response service fee on or from the driver of a motor vehicle or any other person involved in a motor vehicle accident.

Effective: July 1, 2008.

Kruse, Bray

January 8, 2008, read first time and referred to Committee on Judiciary.
January 24, 2008, amended, reported favorably — Do Pass.

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SB 81—LS 6272/DI 92+



January 25, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 81

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-13-2-1.2 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]: **Sec. 1.2. "Accident response service fee", for purposes of**
4 **IC 9-29-11.5, has the meaning set forth in IC 9-29-11.5-1.**
5 SECTION 2. IC 9-13-2-94.2 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2008]: **Sec. 94.2. "Local law enforcement agency", for purposes**
8 **of IC 9-29-11.5, has the meaning set forth in IC 9-29-11.5-2.**
9 SECTION 3. IC 9-17-2-2 IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** A person applying for a
11 certificate of title for a vehicle must submit an application on a form
12 furnished by the bureau that contains the following information:
13 (1) A full description of the vehicle.
14 (2) A statement of the person's title and of any lien or
15 encumbrance on the vehicle.
16 (3) Other information the bureau requires.
17 **(b) This subsection applies only to an individual who receives an**

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1 interest in a vehicle under IC 9-17-3-9. To obtain a certificate of
2 title for the vehicle, the individual must do the following:

3 (1) Surrender the certificate of title designating the individual
4 as a transfer on death beneficiary.

5 (2) Submit proof of the transferor's death.

6 (3) Submit an application for a certificate of title on a form
7 furnished by the bureau that meets the requirements of
8 subsection (a).

9 SECTION 4. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a
11 certificate of title has been issued is sold or if the ownership of the
12 vehicle is ~~otherwise~~ transferred **in any manner other than by a**
13 **transfer on death conveyance under section 9 of this chapter**, the
14 person who holds the certificate of title must do the following:

15 (1) Endorse on the certificate of title an assignment of the
16 certificate of title with warranty of title, in a form printed on the
17 certificate of title, with a statement describing all liens or
18 encumbrances on the vehicle.

19 (2) Except as provided in subdivisions (3) and (4), deliver the
20 certificate of title to the purchaser or transferee at the time of the
21 sale or delivery to the purchaser or transferee of the vehicle, if the
22 purchaser or transferee has made all agreed upon initial payments
23 for the vehicle, including delivery of a trade-in vehicle without
24 hidden or undisclosed statutory liens.

25 (3) In the case of a sale or transfer between vehicle dealers
26 licensed by this state or another state, deliver the certificate of
27 title within twenty-one (21) days after the date of the sale or
28 transfer.

29 (4) Deliver the certificate of title to the purchaser or transferee
30 within twenty-one (21) days after the date of sale or transfer to the
31 purchaser or transferee of the vehicle, if all of the following
32 conditions exist:

33 (A) The seller or transferor is a vehicle dealer licensed by the
34 state under IC 9-23.

35 (B) The vehicle dealer is not able to deliver the certificate of
36 title at the time of sale or transfer.

37 (C) The vehicle dealer reasonably believes that it will be able
38 to deliver the certificate of title, without a lien or an
39 encumbrance on the certificate of title, within the twenty-one
40 (21) day period.

41 (D) The vehicle dealer provides the purchaser or transferee
42 with an affidavit under section 3.1 of this chapter.

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1 (E) The purchaser or transferee has made all agreed upon
 2 initial payments for the vehicle, including delivery of a
 3 trade-in vehicle without hidden or undisclosed statutory liens.

4 (b) A licensed dealer may offer for sale a vehicle for which the
 5 dealer does not possess a certificate of title, if the dealer can comply
 6 with subsection (a)(3) or (a)(4) at the time of the sale.

7 (c) A vehicle dealer who fails to deliver a certificate of title within
 8 the time specified under this section is subject to the following civil
 9 penalties:

10 (1) One hundred dollars (\$100) for the first violation.

11 (2) Two hundred fifty dollars (\$250) for the second violation.

12 (3) Five hundred dollars (\$500) for all subsequent violations.

13 Payment shall be made to the bureau and deposited in the state general
 14 fund. In addition, if a purchaser or transferee does not receive a valid
 15 certificate of title within the time specified by this section, the
 16 purchaser or transferee shall have the right to return the vehicle to the
 17 vehicle dealer ten (10) days after giving the vehicle dealer written
 18 notice demanding delivery of a valid certificate of title and the dealer's
 19 failure to deliver a valid certificate of title within that ten (10) day
 20 period. Upon return of the vehicle to the dealer in the same or similar
 21 condition as delivered to the purchaser or transferee under this section,
 22 the vehicle dealer shall pay to the purchaser or transferee the purchase
 23 price plus sales taxes, finance expenses, insurance expenses, and any
 24 other amount paid to the dealer by the purchaser.

25 (d) For purposes of this subsection, "timely deliver", with respect to
 26 a third party, means to deliver to the purchaser or transferee with a
 27 postmark dated or hand delivered not more than ten (10) business days
 28 after there is no obligation secured by the vehicle. If the dealer's
 29 inability to timely deliver a valid certificate of title results from the acts
 30 or omissions of a third party who has failed to timely deliver a valid
 31 certificate of title to the dealer, the dealer is entitled to claim against
 32 the third party one hundred dollars (\$100). If:

33 (1) the dealer's inability to timely deliver a valid certificate of title
 34 results from the acts or omissions of a third party who has failed to
 35 timely deliver the certificate of title in the third party's
 36 possession to the dealer; and

37 (2) the failure continues for ten (10) business days after the dealer
 38 gives the third party written notice of the failure;

39 the dealer is entitled to claim against the third party all damages
 40 sustained by the dealer in rescinding the dealer's sale with the
 41 purchaser or transferee, including the dealer's reasonable attorney's
 42 fees.

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(e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 5. IC 9-17-3-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 9. (a) An individual whose certificate of title for a vehicle indicates that the individual is the sole owner of the vehicle may create an interest in the vehicle that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the vehicle to one (1) or more named individuals as transfer on death beneficiaries.**

(b) Subject to subsection (e), an interest in a vehicle transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary; to be effective.

(e) Upon the death of an individual conveying an interest in a vehicle in a certificate of title obtained under this section, the interest in the vehicle is transferred to each beneficiary who:

(1) is named in the certificate; and

(2) survives the transferor.

(f) A transfer of an interest in a vehicle under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

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SECTION 6. IC 9-18-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Upon the transfer of ownership of an antique motor vehicle registered under this chapter:

(1) the antique motor vehicle's registration is void; and

(2) the license plates shall be removed from the antique motor vehicle by the person who owns the antique motor vehicle.

(b) A person who is not the original registrant of an antique motor vehicle may not possess the license plates for the antique motor vehicle.

(c) A person who originally owns the license plates for an antique motor vehicle may, for the remainder of the year in which the ownership of the vehicle is transferred, register another antique motor vehicle under the same registration.

(d) This subsection does not apply to an antique motor vehicle acquired by a conveyance subject to IC 9-17-3-9. Upon the transfer and sale of an antique motor vehicle registered under this chapter, the person who acquires ownership of the antique motor vehicle shall, not more than thirty-one (31) days after the date of acquiring ownership or before using the motor vehicle upon the highways, make an application with the bureau for registration of the antique motor vehicle under this chapter.

(e) This subsection applies only to an antique motor vehicle acquired by a conveyance subject to IC 9-17-3-9. Upon the transfer and sale of an antique motor vehicle registered under this chapter, the person who acquires ownership of the antique motor vehicle shall, not more than sixty (60) days after the date of acquiring ownership or before using the motor vehicle upon the highways, make an application with the bureau for registration of the antique motor vehicle under this chapter.

SECTION 7. IC 9-29-4-4, AS AMENDED BY P.L.219-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The fee for a delinquent title is ten dollars (\$10). Except as provided in subsections (b), (c), ~~and~~ (d), **and (e)**, the bureau shall collect this fee when a purchaser or transferee fails to apply for an original certificate of title or a transfer of title, by assignment, within thirty-one (31) days after the vehicle is purchased or otherwise acquired. This fee is in addition to all other fees imposed for the issuance of a certificate of title.

(b) A dealer who titles a vehicle in the dealership's name for purposes of putting the vehicle in rental, leasing, or demonstrating service is not required to pay a delinquent title fee under this section, but shall pay the following for each title:

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(1) The title fee under section 3 of this chapter.

(2) A service charge under IC 9-29-3.

(c) A dealer who titles a vehicle in the dealership's name for the purpose of selling the vehicle shall pay the following:

(1) The title fee under section 3 of this chapter.

(2) A service charge under IC 9-29-3.

(d) IC 9-17-2-1.5 applies to the purchase or acquisition of an off-road vehicle that is less than five (5) model years old.

(e) An individual who acquires a vehicle by a conveyance subject to IC 9-17-3-9 is not required to pay a delinquent title fee under this section unless the individual fails to apply for a certificate of title within sixty (60) days after the vehicle is acquired.

SECTION 8. IC 9-29-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 11.5. Accident Response Service Fees

Sec. 1. As used in this chapter, "accident response service fee" means a fee imposed for any of the following:

(1) The response by a local law enforcement agency to a motor vehicle accident.

(2) The investigation by a local law enforcement agency of a motor vehicle accident.

Sec. 2. As used in this chapter, "local law enforcement agency" means a political subdivision's department or agency whose principal function is the apprehension of criminal offenders.

Sec. 3. A political subdivision or a local law enforcement agency of a political subdivision may not impose or collect, or enter into a contract for the collection of, an accident response service fee on or from:

(1) the driver of a motor vehicle; or

(2) any other person;

involved in a motor vehicle accident.

SECTION 9. IC 9-31-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **Except as provided in**

section 30 of this chapter, a person acquiring a watercraft from the owner of the watercraft, whether the owner is a manufacturer, importer, dealer, or otherwise, does not acquire any right, title, claim, or interest in or to the watercraft until the person has obtained a certificate of title to the watercraft. A waiver or estoppel does not operate in favor of the person against another person having possession of the certificate of title, or manufacturer's or importer's certificate for the watercraft, for

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a valuable consideration.

(b) A court may recognize the right, title, claim, or interest of a person in or to a watercraft sold, disposed of, mortgaged, or encumbered only if the right, title, claim, or interest:

(1) is evidenced by:

(A) a certificate of title;

(B) a certificate of title designating a transfer on death beneficiary to the watercraft signed under section 30 of this chapter; or

(C) a manufacturer's or importer's certificate issued under this chapter; or

(2) is evidenced by admission in the pleadings or stipulation of the parties.

SECTION 10. IC 9-31-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. **(a) Except as provided in subsection (b),** an application for a certificate of title shall be filed with the bureau within thirty-one (31) days after the date of purchase or transfer. The application must be accompanied by the fee prescribed in IC 9-29-15-1.

(b) This subsection applies only to a watercraft acquired by a conveyance subject to section 30 of this chapter. An application for a certificate of title shall be filed with the bureau within sixty (60) days after the date of the transfer under section 30 of this chapter. The application must be accompanied by the fee prescribed in IC 9-29-15-1.

SECTION 11. IC 9-31-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) If the transfer of ownership of a watercraft is by operation of law (such as upon inheritance, devise, bequest, **transfer on death designation in accordance with section 30 of this chapter**, order in bankruptcy, insolvency, replevin, or execution of sale), if a watercraft is sold to satisfy a storage or repair charge, or if repossession is had upon default in performance of the terms of a security agreement, the bureau shall issue to the applicant a certificate of title to the watercraft upon the following:

(1) **Compliance with any of the following:**

(A) The surrender of the prior certificate of title. ~~or~~

(B) The surrender of the manufacturer's or importer's certificate. ~~or, when that is not possible, upon~~

(C) Both of the following:

(i) The surrender of a certificate of title designating a transfer on death beneficiary.

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(ii) The submission of proof of the death of the transferor.

(D) The presentation of satisfactory proof to the bureau of ownership and a right of possession to the watercraft.

(2) Payment of the fee prescribed under IC 9-29-15-1.

(3) Presentation of an application for certificate of title.

(b) A certification by the person or agent of the person to whom possession of the watercraft passed setting forth the facts entitling the person to possession and ownership, together with a copy of the journal entry, court order, or instrument upon which the claim of possession and ownership is founded, is satisfactory proof of ownership and right of possession.

(c) If an applicant cannot produce proof of ownership, the applicant may apply to the bureau and submit evidence of ownership. If the bureau finds the evidence sufficient, the bureau may issue a certificate of title. If, from the records of the department, a lien appears to be on the watercraft, the certificate of title must contain a statement of the lien, unless the application is accompanied by proper evidence of the extinction of the lien.

SECTION 12. IC 9-31-2-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 30. (a) An individual whose certificate of title for a watercraft indicates that the individual is the sole owner of the watercraft may create an interest in the watercraft that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the watercraft to one (1) or more named individuals as transfer on death beneficiaries.**

(b) Subject to subsection (e), an interest in a watercraft transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary; to be effective.

(e) Upon the death of an individual conveying an interest in a

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- 1 watercraft in a certificate of title obtained under this section, the
2 interest in the watercraft is transferred to each beneficiary who:
3 (1) is named in the certificate; and
4 (2) survives the transferor.
5 (f) A transfer of an interest in a watercraft under this section is
6 subject to IC 6-4.1.
7 (g) A certificate of title designating a transfer on death
8 beneficiary is not testamentary.

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SENATE MOTION

Madam President: I move that Senator Bray be added as coauthor of Senate Bill 81.

KRUSE

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 81, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 18, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.2. "Accident response service fee", for purposes of IC 9-29-11.5, has the meaning set forth in IC 9-29-11.5-1.**

SECTION 2. IC 9-13-2-94.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 94.2. "Local law enforcement agency", for purposes of IC 9-29-11.5, has the meaning set forth in IC 9-29-11.5-2."**

Page 6, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 9. IC 9-29-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 11.5. Accident Response Service Fees

Sec. 1. As used in this chapter, "accident response service fee" means a fee imposed for any of the following:

- (1) The response by a local law enforcement agency to a motor vehicle accident.
- (2) The investigation by a local law enforcement agency of a motor vehicle accident.

Sec. 2. As used in this chapter, "local law enforcement agency" means a political subdivision's department or agency whose principal function is the apprehension of criminal offenders.

Sec. 3. A political subdivision or a local law enforcement agency of a political subdivision may not impose or collect, or enter into a contract for the collection of, an accident response service fee on or from:

- (1) the driver of a motor vehicle; or

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**(2) any other person;
involved in a motor vehicle accident."**

Page 9, delete lines 16 through 42.

Delete page 10.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 81 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 7, Nays 0.

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